

Notice of Allowability

Application No.

09/871,099

Examiner

Roberto Rábago

Applicant(s)

WANG ET AL.

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/8/2004.
2. ☒ The allowed claim(s) is/are 1-8.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Attachment to Notice of Allowability

Restriction/Election

1. Applicants are advised of the following regarding the previous Requirement for Election/Restriction. Claims 1 and 5 are generic and allowable. Accordingly, the restriction requirement as to the species encompassed by these Markush-type claims directed toward olefin polymerization comprising a transition metal complex of the ligands shown as (I), (II) or (XII) is hereby withdrawn since all of the claims to these species (i.e., claims 1-8) depend from or otherwise include each of the limitations of an allowed generic claim. However, claims 12-15, directed toward ethylene/polar monomer copolymerization remain withdrawn from consideration because they do not depend upon or otherwise include all the limitations of an allowed generic claim as required by 37 CFR 1.141.

In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Examiner's Amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The amendment to the specification updates cited US applications and corrects an obvious typographical error in applicants' previous amendment to page 121. The amendment to the claims cancels previously withdrawn claims which were non-elected without traverse.

In the claims: cancel claims 12-15.

In the specification:

Cancel the amendments to the specification filed 2/2/2004.

Replace the sentence beginning at p. 28, line 9, with the following sentence:

For an explanation of Zwitterionic complexes, see U.S. Patent Application 09/871,100 filed 31 May 2001, now Pat. 6,506,861 which is hereby incorporated by reference herein for all purposes as if fully set forth.

Replace the sentence starting at p. 121, numbered line 19, with the following sentence:

A method for the synthesis of 108 is disclosed in previously incorporated U.S. Patent Application 09/871,100 filed 31 May 2001, now Pat. 6,506,861.

Replace the first sentence of p. 150 with the following sentence:

Methods for the synthesis of these compounds are disclosed in previously incorporated U.S. Patent application 09/871,100 filed 31 May 2001, now Pat. 6,506,861, and in U.S. Provisional Patent Application 60/294,794, filed 31 May 2001, the disclosures of which are hereby incorporated by reference herein for all purposes as if fully set forth.

Drawings

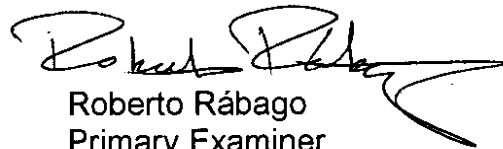
3. Figures 1-3 were indicated as acceptable in a previous office action. However, since that time, the USPTO has moved to an electronic file wrapper system, and the scanned documents have a slightly decreased resolution. Figures 1 and 3 are acceptable; however, the small fonts of Figure 2 are no longer legible, and therefore Figure 2 is objected to. A replacement figure 2 with fonts of larger size and increased clarity is required.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Roberto Rábago', with a stylized flourish extending from the end.

Roberto Rábago
Primary Examiner
Art Unit 1713

RR
May 29, 2004